

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jun 11, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

MONICA PESINA, (01),
NICHOLAS SEAN CARTER, (02),

Defendant/s.

No. 2:19-cr-00005-SMJ-01
2:19-cr-00005-SMJ-02

**ORDER GRANTING DEFENDANT
CARTER'S MOTION TO
CONTINUE**

**AMENDED¹ CASE
MANAGEMENT ORDER**

A motion hearing occurred in the above-captioned matter on June 3, 2020.

Defendant Nicholas Sean Carter was present, represented by Nicholas Marchi, and Defendant Monica Pesina was present, represented by Adam Pechtel. Assistant U.S. Attorney Stephanie Van Marter appeared on behalf of the Government. Defense counsel Nicholas Marchi requested a continuance of the pretrial motions filing deadline, the pretrial conference, and the trial, to allow more time to examine discovery, prepare any related motions, and prepare for trial. Defendant Carter supported counsel's request for a trial continuance for the articulated reasons. ECF

¹ This Order amends and supersedes in part the Court's February 4, 2020 Case Management Order, ECF No. 28.

1 No. 68. Defendant Pesina did not join in the motion. The Government did not
2 oppose the request. At the hearing, the Court granted Defendant Carter's motion to
3 continue as to both Defendants; this Order memorializes and supplements the
4 Court's oral ruling.

5 The Indictment was filed on January 22, 2020. ECF No. 1. Defense counsel
6 appeared for Defendant Pesina (01) on January 28, 2020. ECF No. 22. Defense
7 counsel appeared for Defendant Carter (02) on January 23, 2020. ECF No. 14. This
8 is Defendant Carter's (02) first request for a continuance.

9 To ensure defense counsel is afforded adequate time to review discovery,
10 prepare any pretrial motions, conduct investigation, and prepare for trial, the Court
11 grants the motion, extends the pretrial motion deadline, and resets the currently-
12 scheduled pretrial conference and trial dates. The Court finds that Defendant
13 Carter's continuance request is knowing, intelligent, and voluntary, and that the
14 ends of justice served by granting a continuance outweigh the best interest of the
15 public and Defendant in a speedy trial. The delay resulting from Defendant Carter's
16 motion is therefore excluded under the Speedy Trial Act.

17 Counsel are advised that all second or successive continuance requests will
18 be closely scrutinized for the necessity of more time to effectively prepare, taking
19 into account the exercise of due diligence.

20 The Court now enters the following Amended Case Management Order,

1 which sets forth the deadlines, hearings, and requirements the parties will observe
2 in this matter. To the extent this Order conflicts with any previously-entered Orders
3 in this matter, this Order shall govern. All counsel are expected to carefully read
4 and abide by this Order and such provisions of the current CMO which have not
5 been superseded hereby. The Court will grant relief from the requirements in this
6 Order only upon motion and good cause shown.

7 **Accordingly, IT IS HEREBY ORDERED:**

- 8 1. Defendant Carter's oral motion to continue is **GRANTED**.
- 9 2. The Court finds, given counsel for Defendant Carter's need for time to
10 review discovery, prepare any pretrial motions, conduct investigation,
11 and prepare for trial, that failing to grant a continuance would result in
12 a miscarriage of justice and would deny defense counsel the reasonable
13 time necessary for effective preparation, taking into account the
14 exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(i), (iv). The
15 Court, therefore, finds the ends of justice served by granting a
16 continuance in this matter outweigh the best interest of the public and
17 Defendants in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).

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1 3. **Original CMO.** Counsel must review the provisions of the original
2 February 4, 2020 CMO, ECF No. 28, and abide by those procedures
3 which remain in full force and effect and are incorporated herein
4 except for the new compliance deadlines in the following Summary of
5 Amended Deadlines.

6 4. **Pretrial Conference**

7 A. The current pretrial conference date is **RESET to August 27,**
8 **2020, at 9:00 A.M. in RICHLAND.** At this hearing, the Court
9 will hear **ALL** pretrial motions that are noted for oral argument.

10 B. All Pretrial Conferences are scheduled to last no more than
11 **thirty (30) minutes**, with each side allotted **fifteen (15)**
12 **minutes** to present their own motions and resist motions by
13 opposing counsel. If any party anticipates requiring longer than
14 fifteen minutes, that party must notify the Courtroom Deputy at
15 least seven (7) days prior to the hearing. **Any party who fails**
16 **to provide this notice will be limited to fifteen (15) minutes.**

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5. Trial. The current trial date of June 22, 2020, is **STRICKEN** and
RESET to **September 28, 2020**, at **9:00 A.M.** in **RICHLAND**. The
final pretrial conference will begin at **8:30 A.M.**

6. Pursuant to 18 U.S.C. § 3161(h)(7)(B)(i) and (iv), the Court
DECLARES EXCLUDABLE from Speedy Trial Act calculations
for both Defendant Carter and Defendant Pesina the period from
June 3, 2020, the date defense counsel for Defendant Carter moved to
continue, through **September 28, 2020**, the new trial date, as the
period of delay granted for adequate preparation by counsel.

7. Summary of Deadlines

All pretrial motions, including discovery motions, <i>Daubert</i> motions, and motions <i>in limine</i> , filed	July 17, 2020
PRETRIAL CONFERENCE <i>Deadline for motions to continue trial</i>	August 27, 2020 9:00 A.M. - RICHLAND
CIs' identities and willingness to be interviewed disclosed to Defendant/s (if applicable)	September 4, 2020
Grand jury transcripts produced to Defendant/s Case Agent: CIs: Other Witnesses:	September 4, 2020 September 4, 2020 September 4, 2020
Exhibit lists filed and emailed to the Court	September 21, 2020
Witness lists filed and emailed to the Court	September 21, 2020
Trial briefs, jury instructions, verdict forms, and requested voir dire filed and emailed to the Court	September 21, 2020
Exhibit binders delivered to all parties and to the Court	September 21, 2020
Delivery of JERS-compatible digital evidence files to the Courtroom Deputy	September 21, 2020

1 Trial notices filed with the Court	September 23, 2020
2 Technology readiness meeting (in-person)	September 23, 2020
3 JURY TRIAL	September 28, 2020 9:00 A.M. - RICHLAND

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6 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
provide copies to all counsel, the U.S. Probation Office, and the U.S. Marshals
Service.

7 **DATED** this 11th day of June 2020.

8 
9 SALVADOR MENDOZA, JR.
United States District Judge